

## REMARKS

### Regarding the Drawings

The drawings stand objected to as failing to comply with 37 CFR 1.84(p)(5) because the drawings do not include the reference sign; indicator lamp 219, mentioned at various places throughout the specification. The indicator lamp 219 is incorrectly identified in the specification. The only correct indicator lamp is lamp 83 as shown on figure 8 and described elsewhere in the specification. Accordingly no new drawings are necessary and the appropriate portions of the specification have been amended to correct the reference numeral 219 designation.

### Regarding Amendment to Specification

The Examiner has objected to the disclosure because of certain informalities. In particular, the specification contains certain specified typographical errors. The following corrections to the specification have been made to meet the Examiner's objection:

On page 6, line 22, "height 42" has been corrected to read --height H2--.

On page 8, line 1, "electrostatic charges around the *electrostatic charges around the* electrode 1" has been corrected to read --electrostatic charges around the electrode 1--.

On page 8, line 5, "cathode 3" has been corrected to read --cathode 2 --.

The disclosure is also objected to because the inclusion of an incorrect equation for calculating the ratio of the surface area of two cylinders. Page 7, line 3 of the specification has been amended to correct the equation as follows:

$$\frac{(2\pi r^2 h)}{(2\pi r^2 h)} = \frac{\pi (D1)^2 (4)}{\pi (D2)^2 (3)} = \frac{1}{2} = 2/3$$

The Examiner has further objected to the specification because the trademark WALMART™ has been used in the application without appropriate trademark designation. Applicant agrees with the Examiner that the use of the trademark WALMART™ is unnecessary. Appropriate amendments to the specification have been made at page 11, line 3 of the specification.

### Regarding the Claims

Claims 1-6 are pending in the present application. Claim 1 stands rejected pursuant to 35 U.S.C. §102(b) as anticipated by Erni et al., U.S. Patent No. 4,461,744. Claims 1-4 and 6 stand

rejected under 35 U.S.C. §103(a) as being unpatentable over Bevan et al., U.K. Patent Application GB 2394181 A, in view of Bassler et al., U.S. Patent No. 4,410,495. Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bevan et al. in view of Bassler and further in view of Kurokawa et al., U.S. Patent Publication 2004/0010845. Claims 1-4 and 6 are further rejected under 35 U.S.C. §103(a) as being unpatentable over Ostrow, U.S. Patent No. 5,741,317. Claim 5 is further rejected under 35 U.S.C. §103 as unpatentable over Ostrow in view of Kurokawa. Finally, claim 6 is objected to for failing to further limit claim 2. Each of these claims rejections and the claim objection is discussed in detail below.

#### CLAIM OBJECTION PURSUANT TO 37 CFR 1.75(c)

Claim 6 stands objected to as being an improper dependent claim for failing to further limit the subject matter of the previous claim. Claim 6 as filed depended from claim 2. Claim 2 recites specific dimensional limitations with respect to the outer and inner cylindrical conductors of claim 1. Claim 6 as filed recited a surface area in relationship between the two cylindrical conductors. Applicant agrees that claim 6 as filed does not further limit claim 2 since the dimensional limitations of claim 2 require the surface area relationship of claim 6. Claim 6 has been amended by means of the foregoing amendment to depend from claim 1. As amended, claim 6 reads upon outer and inner cylindrical conductors having a 3:2 surface area relationship whether or not said conductors meet the dimensional limitations of claim 2. Accordingly, both claim 2 and claim 6 now properly further limit the subject matter of claim 1. In addition, claim 2 and claim 6 have different scope.

#### CLAIM REJECTIONS PURSUANT TO 35 U.S.C. §102

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by Erni et al. Claim 1 as filed included a limitation directed toward, “a basin having a conductive fluid therein”. The basin element of claim 1 is specifically described and illustrated in the specification and figures as a basin having a typical open top and sufficiently large to hold both the electrode and a user’s feet while the electrode and feet are submersed in a conductive liquid contained within the basin. The Examiner has cited the boiler 42 of Fig. 13 of Erni as anticipatory of Applicant’s basin element.

Applicant respectfully submits that the boiler 42 of Erni is not a basin as that word is customarily used in both the mechanical arts and Applicant’s patent application. In particular, Erni describes the boiler as follows:

*"the boiler 42 is closed at both ends by a cover 43 through which a high voltage lead 34 is passed via a high voltage duct 44...The oxygen containing gas is supplied at the connection 47. The gas in which with ozone leaves the boiler at the other end (not shown of the boiler 42)." (Erni, col. 9, ln. 43-56)*

The boiler of Erni is thus a sealed vessel with conduits for the ingress and egress of an oxygen containing gas, such as is typical with devices described as boilers. There is no suggestion that the boiler features an open top as is typically featured with any device described as a "basin". Since the boiler of Erni has no open top, it can not function as a basin. For example, it is not suitable for holding an electrode or a user's feet submersed in a conductive liquid. Although Applicant believes that the boiler 42 of Erni does not anticipate the basin element of claim 1 as filed, claim 1 has been amended to recite that the basin is an open topped basin sized sufficiently large to hold the electrode and a user's feet submersed in a conductive liquid contained within the basin. Support for this amendment may be found at page 7, line 17. See also Fig. 7 and Fig. 9.

Accordingly, Applicant respectfully submits that claim 1 as amended is novel in view of Erni and the remaining prior art cited but not relied upon by the Examiner.

#### CLAIM REJECTIONS – 35 U.S.C. §103

A) Claims 1-4 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bevan in view of Bassler.

The Examiner at paragraph 10 of the pending Office Action relies upon Bevan et al. to teach the cylindrical inner and outer conductors of Applicant's claim 1, the plurality of members securing the cylinder, a power source, a basin, an insulator between the conductors and other elements of the pending claims. Bassler is relied upon only as an alternative source of arguably cylindrical electrodes. Bassler is silent regarding the remaining elements.

Applicant respectfully submits that the Bevan application is not prior art. The date of the publication of the Bevan UK Patent Application is April 21, 2004. This date is after Applicant's filing date. Applicant points that Bevan is not a PCT application designating the U.S. which would be given its filing date as an effective date for United States prior art purposes (see 35 U.S.C. §102(e)). Since 35 U.S.C. § 102 (e) does not apply the effective date of Bevan as prior art is the publication date.

Since the Bevan application is not prior art and Bassler is admitted by the Examiner to not disclose various elements of Applicant's claims 1-4 and 6, Applicant respectfully submits that claims 1-4 and 6 are patentable over the combination of Bevan and Bassler.

B) Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bevan et al. in view of Bassler et al. and further in view of Kurokawa et al., U.S. Patent Publication 2004/0010845. As discussed above, Bevan is not prior art. Kurokawa does not teach various claimed elements of claim 1, allegedly disclosed by Bevan. Claim 5 depends from claim 1. Accordingly, claim 5 is allowable for the reasons set forth above with respect to claim 1.

C) Claims 1-4 and 6 stand further rejected under 35 U.S.C. §103(a) as being unpatentable over Ostrow, U.S. Patent No. 5,741,317. The Examiner contends that Ostrow teaches all elements of Applicant's claims 1-4 and 6 although the Examiner admits that Ostrow does not teach the outer cylindrical conductor and the inner cylindrical conductor of Applicant's claim 1. The Examiner argues that Applicant's claimed inner and outer cylindrical conductor configuration is a matter obvious design choice to a person of ordinary skill in the art. The Examiner further states that Applicant does not disclose that the claimed electrode configuration provides an advantage, is used for a particular purpose or solves a stated problem. Applicant respectfully disagrees.

Various functional and therapeutic advantages of Applicant's novel and non-obvious electrode configuration are described and illustrated in the application. These advantages include but are not necessarily limited to advantages associated with a first embodiment of Applicant's electrode illustrated in Figs. 7 and 9 wherein the electrode is sized to fit between a user's feet. In this and other embodiments, the electrode has a height dimension which allows the electrostatic field lines described at page 8, line 3, (paragraph 047 of the published application) to encompass the tissues of a normal foot in a relatively uniform manner. Plate electrodes such as described in the Ostrow patent would necessarily cause a user's foot to be subjected to a gradient of charges ranging from greater to lesser the farther a select portion of the foot is positioned away from a given flat electrode.

Applicant also describes a second embodiment of this invention at page 7, line 11 and Fig. 6 where the outer conductive electrode is large enough that the user's feet are placed between it and the inner electrode. This embodiment is within the scope of the subject matter of

claims 1, 4 and 5. The electrode configuration of Fig. 6 is particularly advantageous for assuring that all portions of a user's feet are positioned within the most therapeutic zone.

Accordingly, Applicant respectfully submits that the claimed electrode configuration is functional, provides well specified therapeutic benefits, and is not suggested by Ostrow.

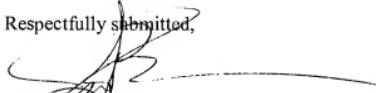
Since Ostrow does not teach or suggest each element of the claimed electrode configuration, Ostrow is not an appropriate reference pursuant to 35 U.S.C. §103(a).

D) Claim 5 stands further rejected in view of the combination of Ostrow and Kurokawa. Kurokawa is relied upon to teach the use of an operation timer. The Examiner admits that the function of the Kurokawa timer is unclear. It is inappropriate for the Examiner to speculate concerning the teaching of prior art references. As discussed in detail above, Ostrow does not teach the electrode configuration of claim 1. Kurokawa also does not disclose this element. Accordingly, this combination of references does not teach all of the elements of claim 5. Furthermore, there is no motivation contained in either reference or obvious to one of ordinary skill in the art at the time of the invention to modify the references to reach the claimed subject matter.

For the reasons set forth above, Applicant respectfully submits the claims as filed are allowable over the art of record and reconsideration and issuance of a notice of allowance are respectfully requested. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefor to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to deposit account No. 19-5117.

Respectfully submitted,



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